

HOUSE BILL 3476
By Tindell

AN ACT to enact the "Charitable Gaming Operators Licensing Law" and to amend Tennessee Code Annotated, Title 3; Title 4; Title 38; Title 39 and Title 48, relative to annual events operated for the benefit of 501(c)(3) organizations located in Tennessee pursuant to Article XI, Section 5 of the Constitution of Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Charitable Gaming Operators Licensing Law".

SECTION 2. Tennessee Code Annotated, Title 48, Chapter 101, is amended by adding the following language as a new part:

Section 48-101-801. As used in this part, unless the context otherwise requires:

(1) "§501(c)(3) organization" means an entity which is exempt from federal income taxation under §501(a) of the Internal Revenue Code as an organization described in §501(c)(3);

(2) "Annual event" means an event:

(A) Authorized by two-thirds vote of all members elected to each house of the general assembly;

(B) Operated for the benefit of a §501(c)(3) organization located in Tennessee;

(C) Conducted with a type of lottery game;

(D) Conducted on an event date; and

(E) Conducted at one (1) location;

(3) "Annual event operator" means a person who, for financial or other consideration, operates annual events for §501(c)(3) organizations; provided that

"annual event operator" does not include a bona fide employee or member of a §501(c)(3) organization who:

(A) In the normal course of such person's duties, operates an authorized annual event for the organization of which the person is an employee or a member; and

(B) Operates only one (1) such annual event in any twelve-month period beginning on July 1 and ending June 30 each year for any §501(c)(3) organization;

(3) "Annual event operator's license" means the license issued by the secretary to an annual event operator;

(4) "Person" means any individual, organization, trust, foundation, group, association, partnership, limited liability company, corporation, society, or any combination of them, or any other entity; and

(5) "Secretary" means the secretary of state or the secretary of state's authorized representative.

Section 48-101-802.

(a) No §501(c)(3) organization shall employ, hire or contract with any person to operate an annual event for the benefit of such organization unless such person, and all subcontractors, possess a valid annual event operator's license in accordance with the provision of this part.

(b) No person shall operate, or propose to operate, for financial or other consideration an annual event for a §501(c)(3) organization unless such person, and all subcontractors, possess a valid annual event operator's license in accordance with the provisions of this part.

(c) A violation of subsection (b) is a Class D felony; provided, however, that the maximum fine shall be fifty thousand dollars (\$50,000).

(d) Notwithstanding any provision of law to the contrary, any person who violates subsection (a) shall be permanently disqualified from filing an annual event application pursuant to title 3, chapter 17, part 1.

(e) Any person who is convicted of a violation of subsection (c) shall be permanently disqualified from holding an annual event operator's license in Tennessee.

Section 48-101-803.

(a) Any person who, for financial or other consideration, operates, or proposes to operate, annual events for §501(c)(3) organizations shall file an application with the secretary for an annual event operator's license.

(b)

(1) An application for an annual event operator's license shall be in writing under oath or affirmation in the form prescribed by the secretary. The secretary is encouraged to utilize, to every extent possible, web-based forms and procedures for annual event applications.

(2) An application for an annual event operator's license shall contain such information as the secretary may require, including, but not limited to, the applicant's full name, permanent address, telephone number, social security number, taxpayer identification number, date of birth, any temporary local address and telephone number and any felony or misdemeanor convictions in this state or in another jurisdiction.

(3) An annual event application shall be accompanied, at the time of filing, with a waiver of privacy rights, on a form provided by the secretary, which will allow posting of documents on the secretary's website and inspection by any member of the public of any documents filed pursuant to the provisions of this part.

(4) An application that contains false, misleading, deceptive or incomplete information or documents shall not be considered sufficient or complete and any such application shall be summarily denied.

(c) No person shall be issued an annual event operator's license who has been convicted for a violation of any provision of this part, title 39, chapter 14,

part 1, §39-16-702, 39-16-703, title 39, chapter 17 parts 5 or 6 or a similar offense in another jurisdiction.

(d) No person shall be issued an annual event operator's license who has been denied a license, permit or similar authorization to operate or conduct charitable, or for-profit, gaming in another jurisdiction.

(e) No person shall be issued an annual event operator's license who has had a license, permit or similar authorization to operate or conduct charitable, or for-profit, gaming in another jurisdiction suspended or revoked.

(f) The secretary shall issue an annual event operator's license to qualified applicants upon payment of all requisite fees and satisfaction of all bonding requirements. Such licenses shall be valid from the date of issuance to the next June 30 and, if renewed, for a twelve-month period beginning July 1 and ending June 30 unless sooner suspended, canceled or revoked pursuant to rules and regulations established by the secretary.

(g) Upon successful application and prior to issuance of an annual event operator's license, an applicant shall file a bond in the sum of fifty thousand dollars (\$50,000) with the secretary. The bond shall name the applicant as the principal obligor with one (1) or more sureties, satisfactory to the secretary, whose liability in the aggregate as such sureties will at least equal that sum. It shall be payable to the state of Tennessee for the use of the secretary and any person who may have a cause of action against the obligor of the bond for any violations under this part or for any losses resulting from malfeasance, nonfeasance or misfeasance in the conduct of charitable gaming activities. An individual, partnership or corporation, which is an annual event operator, may file a consolidated bond on behalf of all its members, officers and employees. The bond shall continue in effect so long as the applicant's annual event operator's license is in good standing.

(h) The annual event operator, in the case of a corporation, partnership or other business entity or an operator with multiple partners, associates or

employees, shall bear the responsibility of the licensure and bonding of all of the annual event operator's partners, associates and employees who work in direct conjunction with an annual event. Every such person shall make application to the secretary for licensure as an annual event operator in accordance with the provisions of this part.

(i) Annual event operator's licenses shall be renewable annually upon compliance with all provisions of this part, title 3, chapter 17, part 1 and title 39, chapter 17, part 6 unless sooner suspended, canceled or revoked pursuant to the rules and regulations promulgated by the secretary.

Section 48-101-804. At the time of initial application for an annual event operator's license, and at the time of any subsequent renewals, the applicant shall submit a finger print sample to the secretary in a manner prescribed by the secretary pursuant to rules and regulations. The secretary shall submit the names and samples to the Tennessee Bureau of Investigation. The Tennessee Bureau of Investigation, pursuant to §38-6-109, shall conduct a criminal history records check on all such persons applying for an annual event operator's license. The Tennessee Bureau of Investigation may contract with the Federal Bureau of Investigation, other law enforcement agencies or any other legally authorized entity to assist in such investigation. The applicant, or annual event operator seeking renewal, shall pay the actual cost of such records check in addition to all other fees required to be submitted pursuant to the provisions of this part.

Section 48-101-805.

(a) The application fee for an annual event operator's license is fifty dollars (\$50.00).

(b) Upon successful application, the fee for an annual event operator's license is one hundred dollars (\$100).

(c) The renewal fee for an annual event operator's license is one hundred dollars (\$100).

(d) Application and licensing fees paid pursuant to the provisions of this part are non-refundable.

(e) Fees paid for an annual event operator's license shall not be subject to a pro rata reduction for any partial licensing period.

(f) Fees collected under the provisions of this chapter shall be used by the secretary to defray the cost of administering this chapter.

Section 48-101-806. The secretary shall maintain a list of all persons with annual event operator's licenses in good standing on the website of the secretary. Such list shall included the name of the annual event operator, the address of the annual event operator, the telephone number of the annual event operator and any other information the secretary deems appropriate.

Section 48-101-807. The secretary may assess a civil penalty against an annual event operator not to exceed fifty thousand dollars (\$50,000) for a violation of this part. Any hearing on the imposition of any fine pursuant to the provisions of this section shall be in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. The charitable gaming oversight committee shall periodically review and evaluate the charitable gaming operators licensing law.

SECTION 4. The secretary of state is authorized to promulgate rules and regulations as the secretary of state may deem necessary to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6. The provisions of this act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

SECTION 7. This act shall take effect July 1, 2004, the public welfare requiring it and shall apply to the operation of annual events authorized by the general assembly to be conducted on and after July 1, 2005